

REMARKS

Claims 47-50, 61, and 167-424 which have been withdrawn from consideration have been cancelled.

Allowance of claims 80-107 and 121-166 is noted with appreciation.

Allowability is noted of claims 70, 71, 74-79, 109, 110, 113 and 117-120 if rewritten in independent form including all the limitations of the base and intervening claims. These claims have been so rewritten in independent form, and are now submitted to be allowable to applicant.

Claims 51-60 and 62-66, have been variously rejected for obviousness-type double patenting, have been cancelled.

Rejected claims 68 has been cancelled.

Claims 67, 69, 72, 73 have been rejected as being anticipated under 35 U.S.C. §102(b) by the Lumley article. This rejection is respectfully traversed.

These claims, which have been amended merely to recite inherent aspects of the invention, specifically define “aligning the orifice of the graft with the arteriotomy; and locating the plurality of arms through the arteriotomy and within the blood vessel”, and “each of the plurality of arms extends through the arteriotomy and is located adjacent to an interior wall of the blood vessel”.

These aspects of the claimed invention facilitate aligning the orifice of a graft with an arteriotomy. Such aspects of the claimed invention are not shown or

suggested by the Lumley article which merely describes surgical procedures for installing a trouser graft between the infrarenal aorta and the common femoral arteries. Thus, contrary to the Examiner's analysis of this reference, any arms of the graft suitable for anastomosing to the femoral arteries do not extend from the end of the graft through the arteriotomy into the blood vessel. If the procedures of the Lumley article can even be considered to be an arteriotomy for attachment of a graft, this reference is nevertheless deficient of disclosure of arms extending through the arteriotomy back into the blood vessel to which the graft is attached. It is therefore respectfully submitted that the Lumley article does not anticipate claims 67 or dependent claims 69, 72, 73 which are, instead, submitted to be patentably distinguishable over the cited art.

Rejected claims 63 and 66 have been cancelled.

Rejected claims 51-54 have been cancelled

Rejected claims 57, 111, 112 have been cancelled.

Claims 108 and 114-116 have been rejected under 35 U.S.C. §102(b) as being anticipated by Ehrenfeld '619. This rejection is respectfully traversed.

The subject matter of dependent claims 111, 112 has been rewritten as amended claims 108, 114 and 115 to define the invention with greater particularity and, as amended, these claims now specifically recite "placing the conduit assembly in an arteriotomy defined in a blood vessel in alignment of an orifice of

the blood flow conduit with the arteriotomy, with a first portion of the conduit assembly including the resilient flange within the blood vessel, and a second portion of the conduit assembly outside of the blood vessel". In addition, these claims are further restricted by recitation of a synthetic graft, or "the conduit assembly includes resilient members in the flange that each extends inside the blood vessel radially away from the orifice of the blood flow conduit and extends through the arteriotomy in contact with and along the blood flow conduit after the placing step".

These aspects of the claimed invention are not disclosed in Ehrenfeld '619 which merely fashions a vessel-coupling element from a crotch portion of a bilateral graft element that is prepared by cutting along a smooth contour for uniform suturing about the trimmed periphery to an aperture in a larger artery. Thus, contrary to the Examiner's analysis of this reference, there appears to be no radially outward flange can be placed within the vessel, in the manner as now claimed by applicant. It is therefore respectfully submitted that the deficient disclosure of Ehrenfeld '619 thus fails to anticipate amended claims 108, 114, 115 that are submitted to be patentable over the cited art.

Rejected claim 56 has been cancelled.

Objectionable but allowable claims 70, 71, 75-79, 109, 110, 113 and 117-120, having merely been rewritten to stand independent of rejected base claims and

having incorporated the limitations of intervening claims, introduced no newly added limitations. It is submitted that support in the original disclosure for such restated claims need not be identified (M.P.E.P. §2163.I.B).

Objectionable but allowable claim 74 was also rewritten herein in independent form incorporating the subject matter of the base claim and including:

--(ii) a plurality of arms extending radially away from the orifice of the graft,--

Support for the added ‘radially’ limitation is found, for example, in Figures 9A, 9B, 9E, 9F-9I and at page 18, lines 16-25, and in claim 115.

Claim 67 and dependent claim 69 as amended variously recite:

--locating the plurality of arms through the arteriotomy and within the blood vessel--.

Support for the added limitations are found, for example, in Figure 9C-9I, 19B, 19C, 19E-19H, 20A-20C and at page 18, lines 16-25.

Claim 108 as amended recites:

--placing in a blood vessel a conduit assembly including a blood flow conduit having a resilient flange integrally formed--placing the conduit

assembly in an arteriotomy defined in a blood vessel in alignment of an orifice--with a first portion of the conduit assembly including the resilient flange.--

Support for the added limitations are found, for example, in Figures 9A-9I, 10A-10B, 16-19H, 20A-20C, 21-24 and at page 18, line 17 to page 19, line 13.

Dependent claim 115 as amended recites:

--conduit assembly includes resilient members in the flange that each extends inside the blood vessel radially away from the orifice--and extends through the arteriotomy in contact with and along the blood flow conduit.--

Support for the added limitations are found, for example, in Figures 9E-9I, 10A, 10B and at page 18, line 16 to page 19, line 18.

Responsive to the Examiner's request, applicant identifies as co-pending the related application: U.S. Application Serial No. 10/165,460, filed on June 7, 2002, by Thomas J. Maginot, entitled "Endoscopic Bypass Grafting Method Utilizing an

Inguinal Approach", and copies of claims pending in that application are attached hereto.

Reconsideration and allowance of all elected pending claims are solicited.

Respectfully submitted,
THOMAS J. MAGINOT

Dated: 11/24/03

By: A.C. Smith
Albert C. Smith, Reg. No. 20,355
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Telephone (650) 335-7296
Fax (650) 938-5200

ATTACHMENT:

Claims of Serial No. 10/165,460;